

BEACH ALCOHOL TASK FORCE

Meeting Minutes for 11/27/06

Contact: Allison Stanley; astanley@sandiego.gov, (619) 236-6622

Members Present:

Mark Antis, Todd Brown, Scott Chipman, Clyde Fuller, Nancie Geller, Carol Janks, Katie Keach, Julie Klein, Jeremy Malecha, Dave Martin, Bill Bradshaw, Mike Meyer, Dirk Stump, Jean Froning-absent

Chair:

Councilmember Kevin Faulconer

Meeting called to order by Councilmember Kevin Faulconer (C-M) at 6:35 p.m.

Introductory comments by C-M:

- He has gathered a varied group of individuals to serve on the task force, with many different opinions, and that was for a reason. Looking for a good discussion/dialogue because there has never really been any consensus on alcohol issues before.
- Opportunity to reach consensus and make some actual differences
- Try to limit public comment to two minutes due to the large number of speakers
- Reminder that we are rotating the meetings throughout the different beach community
- Introductions of other City Staff Present: Assistant Police Chief Cheryl Meyers, Police Sgt. Ernie Herbert, Lt. Brian Ahearn, Assistant City Atty. Teresa Martin, Assistant City Atty. John Hemmerling
- Members introduce themselves:
 - Bill Bradshaw: Co-chair of MB neighborhood watch program, and MBTC member. Advocate of booze off beach.
 - Clyde Fuller: PB resident
 - Katie Keach :PBTC
 - Julie Klein: OB resident, parent, merchant
 - Mike Meyer: south mission beach resident.
 - Mark antis: MB resident
 - Jeremy Malecha: exec. Director of Freepb.org
 - Todd brown: Owner of Bubs dive bar/grill; Hospitality task force
 - Dirk Stump: Owns Stumps markets
 - Dave Martin: OBTC
 - Scott Chipman: PB resident, Savepb.
 - Carol Janks: Owner of Zanzibar café

Public Comment

- Michael Mckinty: Bird Rock resident; advocate for freedom and drinking on the beach
- Mindy: OB resident/business owner, don't want to split communities; beach communities have too many liquor licenses and no more should be allowed
- Chuck Grim: PB resident. Concerned about alcohol license; wants to see moratorium of liquor licenses
- Mike Ryan: Said that the OB pier is in bad condition and that people have a right to their opinion including regarding beach alcohol
- Stuart Olson: PB resident and his focus is on licensing issues. Works in hospitality industry and it is his livelihood.
- Ty Hauter: Resident, landlord, and business owner in PB; Have a question for the PD: Do you see businesses run better and managed more effectively? Thinks that the bars are run better now, and the climate is better because some of the bad establishments, like stingars, have been shut down.
- Sara Woodcock: Program manager for Discover PB; Hospitality Task Force group made up of bar/nightclub owners and managers are always working together, volunteering their time, to make

things better, and noted that off-sale establishments will not work with them despite many requests.

- Marian Novak: SDSU research coordinator on alcohol issues; works w/ businesses on strategies to reduce alcohol problems. Over 25 PB bars signed up for designated driver program.
- Patrick Archbold: GM of PB bar; it is his livelihood and he works hard to make sure that it is run right.
- Joe Wilding: upset about the lack of action is his issue; thinks there are too many people in the beach areas, his issue is booze.
- Chuck Srock: OB resident concerned about the idea to partition drinking at OB; disagrees with that idea and thinks that if the issue by the pier is the real problem, then it will just move after the area is divided.
- Ashley: Works in the bar industry and lives at the beach; she puts herself through college by doing that and it is her livelihood
- Eric Lingenfelder: Owns businesses in PB/MB. Thinks that we should hold individuals responsible for their actions and address those individual problems. Understands that City resources are drained and noted that the Bar/restaurants are working towards better solutions, such as cleaning up beaches, contributing to lifeguard assoc., etc.
- David Jones: Works in hospitality industry and SD native; participated in VICE's pilot program for in-house security and they still teach the tools learned in their businesses. Important to reach a solution and help businesses run as better businesses.
- John Anderson: GM at a larger place in PB and notes that they provide a desired service. Irresponsible people are the ones we are trying to address and that distinction should be made
- Keith Has: OB resident; discussed small businesses in OB
- George Yost: OB resident for 8 yrs., grew up in La Jolla. Was initially against the La Jolla shores ban but now feels it was a better idea. Anybody who wanted to drink/party can go and get a permit to drink there. Thinks there should be a year-long trial program.
- Kristen Soski-Conwell: OB native; doesn't think alcohol ban is the right way to approach the problems, we should address the people, the drunks.
- Lisa Shook: Doesn't agree with partition at pier for the surf team and believes it is against the law
- George Barnes: Has lived in OB/pt. loma since 1968—doesn't support partial beach ban b/c it will not work, and not a real solution but just moving the problem. Only answer would be a total ban, not partial
- Dan Morales: OB resident, against partitioning beaches. Either do total ban or not. Cannot regulate people who go to the beach.
- Pastor Tony Maresca: His group has taken 275 people off the wall in OB, 75 off in PB, by helping them and providing a new life. The problem isn't going away, it is the people.
- Lone Wolf/Tommy Mills: Said that the OB wall is a Veterans memorial. He tries to make the area as good as possible from there.
- Paul Krupski: stated that for the most part, the PD is denying PCN, and then the Mayor's office make them overturn that PCN. Mayor's office should listen to public comment.

ABC PRESENTATION by Jennifer Hill

- Discussed distinction between on-sale retail licenses v. off-sale (grocery stores, liquor stores, etc.); said the community usually hears about the on-sale licenses.
- Applying for license: applicant must comply w/ 13-14 diff. statutes. 30-day posting is one of first indicators to the community that someone has applied.
- 4 ways the community is notified of pending license:
 - 30-day posting on the outside of a business.
 - Residents w/in 500 ft. of location receiving a mailing from applicant
 - Residents w/in 100 ft. receive an ABC letter with information about the applicant and the application. ABC staff inspect interior and all residential structures w/in 100 ft.
 - If location is w/in area of high crime/over-concentration, then applicant must publish a notification three times w/in a newspaper that circulates w/in area, w/in 3 consecutive weeks (typically the UT and Beach and Bay Press).
- Local officials are notified on every new application.

- ABC meets with VICE on weekly basis to go over pending applications.
- ABC Daily transmittal of licenses applications; public can receive this for a fee.
- Investigation: ABC investigates all residents w/in 100 ft. and all churches, schools, hospitals, etc. w/in 600 ft. that have objections
- Applicant must meet all local zoning codes; ABC controls licenses, municipalities can control zoning. CUP's can give municipalities greater control over applications
- ABC investigates the applicant fully, looks into their finances; fed./state/local criminal records.
- Protests: any resident can protest any application. What you must prove per statute/case law is how this location will directly affect them at their home. Residents w/in 100 ft. have most power. Most protests go through legal review. ABC can approve over protest, and judge makes final decision.
- Census tracts, set by Fed. Census tract, dictates how many licenses per area. In 92109, there are approximately 5-6 census tracts.
- High Crime and Undue Concentration: SDPD does high crime analysis; 120% over city avg. is considered high crime. Undue concentration is different number for on-sale and off-sale. In 1979, statute required that there be both high crime and over-concentration to be able to deny a license, however, in 1995 the statute was changed to allow for high crime or over-concentration as a reason to deny a license. If either statute applies because the area is high crime or is undue concentrated, then ABC may still override given two exceptions:
 - (1) Public Convenience and Necessity (PCN):
 - If applicant can show requirements that it will meet public convenience or necessity then license can be allowed. SDPD makes this determination for off-sale licenses and ABC does for on-sale licenses. ABC makes its PCN determination by doing an investigation to see if applicant meets PCN.
 - (2) Transfer within 90 days
 - If an application is filed w/in 90 days of when another location goes out of business-this rule doesn't apply. Existing conditions carry forward, but can still add more.

Questions by Committee:

- C-M: Asked JH where we are in terms of over-concentration for PB, MB, and OB. JH responded that in MB/PB, all but one census tract is over-concentrated. OB is probably similar but does not have information with her. Majority of PB/MB licenses issued b/w 1930-1960's. In 2000, there were 186 licenses in 92109; in 2002 there were 183 licenses; 2003-180 licenses; and as of July 19th, 2006, there were still 180 licenses. [these numbers do not include off-sale].
- Some licenses have been auto-revoked, people move businesses, etc.—so some
- Julie K.: Asked if we can get information for the OB census tracts, 92107. JH responded she would bring them next month
- C-M: Asked whether there is a limit for licenses. JH responded that there is no limit per statute.
- Bill B.: Asked if we can get a list of revoked licenses in the last 5 yrs. and how they have been revoked. JH responded that the numbers reflected might reflect all investigatory work done. Often, if a business is about to have their license revoked, they will agree to transfer it to another jurisdiction.
- Carol J.: Said that she has a beer/wine application pending with ABC. Said that it is difficult to change/mold community to have some decent restaurants. Thinks there should be CUPs and that any good operators would be willing to do that.
- Jeremy M.: one common concern is that an applicant gets into the area with a restricted license for beer/wine and then gets a less restrictive license in little time. JH responded that after a yr., that applicant can apply to amend/remove operating restrictions. If that is the case, the license would be fully investigated again, residents within 100 ft. would be notified, as would all protestants of record, etc. Difficulty is that the community would have to prove that the addition of distilled spirits would cause negative effects on the licenses. Prevention groups haven't done study on how adding distilled spirits causes neg. or pos. effects to a beer/wine study.
- Todd B.: said that his license was changed from a beer/wine licenses three years ago to a full bar. He asked if the beach areas are the only area of city that faces this situation? JH responded that

most areas w/in city face undue concentration. Todd then asked if most of the 48 licenses (bar only and no food required), were issued a long time ago? JH responded that they were.

- Dirk Stump: Asked if there is anything someone can do through ABC to report on what they deem to be a problem area? JH responded that the ABC is complaint driven, and often they do not get any complaints. Said that constituents can send ABC complaints, on their website as well. If there is location that is serious nuisance then keep citizen logs and work with ABC, PD to make them become good neighbor or discipline. Although ABC communicates with PD, it is important that nuisances be communicated directly to the ABC.
- Dave Martin: Asked if ABC often has people trying to remove the 50/50 food requirement. JH said that 50/50 means that 50% of sales must be food sales. ABC can do audits to ensure this is being met. JH said that it is rarely removed, only occasionally in the Gaslamp when the gross sales are so high that 50/50 is unrealistic.
- Scott C.: Asked how a community is noticed when there is a conditions modification to a license. JH responded that per statute, the community at large is not notified, only protestants of record, residents w/in 100 ft., City Council, SDPD and other City Officials. Scott then asked whether all license violations are expunged when a license is transferred to another person. JH responded that yes they are b/c each person is its own entity. ABC does investigate these requests and does as much as they can to ensure the new applicant is not merely a family member of the old applicant b/c cannot transfer to family member to clean your slate.
- Todd B. asked if that is a common situation. JH responded that it is not in beach area restaurant est.'s, mostly the on-sale licenses.
- Katie K.: stated that these are state statutes and we need to work w/ state legis.'s on this issue. Are there things/tools that are more effective for local juris.? JH responded that in the City of SD, CCDC has a CUP process for any new on-sale licenses. They have their own conditions. CUP's have been effective if applied well and enforced, she noted that ABC doesn't enforce CUP or civil injunctions by city.
- Todd B. asked if JH knew of licenses revoked by CCDC? JH responded that she was unsure.
- Julie K.: asked what the community can do to have input if owner only expands bar and restaurant. JH responded that if city determines CUP is required, ABC would only investigate ownership change but not the CUP.
- Julie K. then asked if applicant has to post sign if they are expanding. JH responded that not all expansions do require posting, investigation.
- Mike Meyer: can you place additional conditions w/ ownership transfer? JH responded that as of 1/1/07, the ABC can place conditions on ownership transfer if it can show substantial evidence that those conditions would alleviate prior problems.
- Jeremy M: What is typical revocation timeline? JH responded that there is no typical time. Can take as long as two years to stack up enough violations.
- Jeremy M.: Are most responsive to administrative remedies? JH: yes, most are responsive.
- Scott C.: said that any resident can protest licenses w/in 100 ft. Commented that it seems that 10,000 incidents of drunk driving would impact license. Was licenses issued to Sao Bien w/o a protest? JH responded that no, people were there to protest.
- Scott C.: who pays admin. Law judge? Is La Jolla or Univ. City over-concentrated? Is entire city over-concentrated?
- C-M: asked JH to look at which District 2 neighborhoods are over-concentrated. JH said she can print list of all census tracts.
- Scott C.: Are there not studies to show that a change from beer/wine to distilled spirits are tied into crime? When were the majority of licenses issued? JH responded prior to 1980 was when majority of licenses were issued.
- Carol J.: How long does appeals process take for applicant? JH responded that there is no set time, avg. is 9-12 mths.
- Clyde F.: What is substantial in terms of evidence and protests? JH responded that there is no set definition, it is just enough evidence to win their case. If you protest a new application, you must testify at hearing or protest is thrown out.
- Clyde F.: How many people need to protest to increase the hurdle? JH responded that it is not based on numbers, but how close they live, 100 ft. away have the most say, etc.

- C-M: Stated that we will continue this conversation on licensing, thoughts ideas/roundtable discussion next month. Next meeting will be held on 12/18 at 6:30 p.m.

Comments from the community

- What are fines? JH responded that the disciplinary process is another issue
- Sean: concerned that there is no data, what as a comm. member can he bring to ABC to show where the problem establishments are? JH responded that any and all info is sorted through, burden on dept. is to prove house knowledge. Give them as much info as possible. They do get a lot of data/reports from PD, but there is stuff out there that they don't.
- Marcie: why isn't high crime enough evidence to mean a new license wont be issued. What would you do if your comm. had 580 DUI's each yr.? JH responded that sometimes high crime is enough. ABC has been overturned quite a lot by courts. Within that have to break down alcohol crime.

NEXT MEETING DATE AND TIME

December 18, 2006, 6:30 p.m.

Wavehouse in Mission Beach, 3115 Ocean Front Walk.